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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 840 of 2001

Petitioner		Rohit Kumar Tiwari Son of Late Shri Madhav Prasad Tiwari, aged about 24 years, R/o Kirari Via Nariyara, District Bilaspur.
	Versus	
Respondents	1.	State of Madhya Pradesh through the Secretary, Agricultural Department, Bhopal (M.P.).
	2.	State of Chhattisgarh through the Secretary, Agricultural Department, Raipur (Chhattisgarh).
	3.	Director, Agricultural, Bhopal (M.P.).
	4.	Joint Director, Agriculture, Raipur Division, (Chhattisgarh).

DB: Hon'ble Shri Justice S. R. Nayak, C.J.
& Hon'ble Shri Justice Satish K. Agnihotri, J.

Miss Sharmila Singhai, Advocate, for the petitioner.

Mr. Sanjay S. Agarwal, Govt. Advocate for Respondents.

ORAL ORDER

(12th December 2005)

The following order of the Court was passed by **S. R. Nayak, C.J.**

1. This writ petition filed under Article 226 of the Constitution of India is directed against the order dated 29.1.2001 passed by the Madhya Pradesh Administrative Tribunal, Raipur Bench (for short 'the Tribunal') in Miscellaneous Application No. 11/2000 marked as Annexure P/10 produced at page 32 of the material papers. Should we say that the writ petition is totally misconceived and we are not able to grant any relief to the petitioner ?

2. The facts are simple. The father of the petitioner was retired on 20.4.1984 on medical invalidation ground. At that time, the petitioner was minor. After attaining majority, the petitioner, on 16.10.1990, applied to the third and fourth respondents seeking

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appointment on compassionate ground. The petitioner was informed that there was no vacancy then existing and his case would be considered when the vacancy arises in due course. Ultimately, no appointment was given to the petitioner. That led to the petitioner instituting Original Application No. 564/1998 before the Tribunal. That application was disposed of by the Tribunal on 30th August, 1999 with a direction to the non-applicants to consider the case of the petitioner for compassionate appointment on the basis of the circular dated 18.6.1994 issued by the non-applicants and if the applicant was found eligible and fit in all respects to appoint him to a suitable post having regard to his qualifications and experience. The Tribunal directed that the above direction should be complied with within a period of three months. The non-applicants did not comply with the order within the stipulated time. In the circumstance, the petitioner filed contempt application being M.A.No. 11/2000 before the Tribunal complaining about disobedience of the writ issued by the Tribunal in O.A.No. 564/1998 dated 30th August, 1999 by the non-applicants. The non-applicants put in appearance in the said contempt case and tendered apologies for delay in complying with the writ issued by the Tribunal dated 30.8.1999, but, it was specifically pleaded before the Tribunal that the writ was complied with on 30.1.2000 by issuing an endorsement marked as Annexure A/9 rejecting the claim of the petitioner in view of the withdrawal of the circular dated 18.6.1994 by the subsequent circular dated 3.1.1995. In view of this development the Tribunal dismissed the Miscellaneous Application No. 11/2000 by its order dated 29.1.2001 which is impugned in this writ petition.

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3. In this writ petition, the petitioner has sought for quashing of the order of the Tribunal dated 29.1.2001. It is quite often said and reiterated that a person cannot be punished for alleged contempt of Court unless it is shown that such person wontedly and deliberately disobeyed or flouted the writ issued by the Court, interim or final. In the instant case, the non-applicants/respondents had put in appearance, tendered their apology for delay in passing the order and the Tribunal having convinced and satisfied that there was no deliberate or intentional delay in passing the order within time limit prescribed by the Court and in its discretion thought it appropriate to drop the proceedings and accordingly dismissed the Miscellaneous Application No. 11/2000. Therefore, as regards the closure of the contempt case, we cannot take any exception.

4. Although, in this writ petition the order of the Tribunal made in M.A.No. 11/2000 is assailed as we heard the learned counsel for the petitioner more and more, we could see that the actual grievance of the petitioner is in fact directed against the action of the respondents in not giving appointment rather than the impugned order of the Tribunal, but, unfortunately for the petitioner the adverse order passed by the respondents on 13.1.2000 is not challenged. In the present proceedings, we do not want to express any opinion on the validity or correctness of the order made by the respondents/authorities on 13.1.2000 marked as Annexure A/9 (Annexure R/1 in the return by the respondents in this petition). If that order falls for judicial review, the Court may review the merits of the matter. For the present purpose, suffice it to state that since the order made by the respondents dated 13.1.2000 remains unchallenged, there is no

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scope for us to grant relief of appointment on compassionate ground to the petitioner. By this observation, we are not understood to have stated that the petitioner is entitled to the appointment on compassionate ground. That question is left open to be agitated in an appropriate proceeding. Writ petition is dismissed subject to the above observations. No costs.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Thakur